

Message Text

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ACTION DLOS-05

INFO OCT-01 NEA-09 IO-10 ISO-00 OIC-02 FEA-01 ACDA-05

AGR-05 AID-05 CEA-01 CEQ-01 CG-00 CIAE-00 CIEP-01

OFA-01 COME-00 DODE-00 DOTE-00 EB-07 EPA-01 ERDA-05

FMC-01 H-02 INR-07 INT-05 JUSE-00 L-02 NSAE-00 NSC-05

NSF-01 OES-03 OMB-01 PA-01 PM-03 PRS-01 SP-02 SS-15

USIA-06 TRSE-00 AF-06 ARA-06 EA-06 EUR-12 /145 W

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FM USMISSION GENEVA

TO SECSTATE WASHDC 2191

AMEMBASSY MUSCAT

S E C R E T GENEVA 2704

FROM USDEL LOS

E.O. 11652: XGDS-3

TAGS: PLOS

SUBJECT: LOS: STRAITS

1. DURING CARACAS SESSION OF LOS CONFERENCE, OMAN
TABLED DRAFT ARTICLES ON NAVIGATION THROUGH THE
TERRITORIAL SEA, INCLUDING STRAITS USED FOR INTERNATIONAL
NAVIGATION (A/CONF. 62/C.2/L.16). ARTICLES CALL FOR
ONLY INNOCENT PASSAGE IN BOTH TERRITORIAL SEA AND
STRAITS, AND CONTAIN LARGE NUMBER OF ADDITIONAL UN-
ACCEPTABLE FEATURES, FOREMOST OF WHICH ARE PROVISIONS
WHICH WOULD RESULT IN DIFFERENT PASSAGE OF COMMERCIAL
VESSELS WOULD BE PRESUMED INNOCENT, WHEREAS A COASTAL
STATE COULD REQUIRE NOTIFICATION OR AUTHORIZATION
FOR PASSAGE OF WARSHIPS AS WELL AS NUCLEAR POWERED SHIPS
OR SHIPS CARRYING NUCLEAR WEAPONS. OMAN HAS ALSO CO-
SPONSORED EGYPTIAN PROPOSAL FOR A CONTIGUOUS ZONE OF

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UNSPECIFIED BREADTH BEYOND THE TERRITORIAL SEA

(A/CONF. 62/C. 2/L. 78).

2. EMBASSY SHOULD MAKE APPROACH TO APPROPRIATE HIGH-LEVEL OFFICIAL AND EXPRESS CONCERN OVER OMANI ADVOCACY OF APPROACH IN BOTH L. 16 AND L. 78. FOLLOWING POINTS MAY BE USED AS APPROPRIATE:

A. IMPORTANCE TO OMAN OF TREATY REGIME PROVIDING ACCESS TO RED SEA THROUGH STRAITS BAB AL MANDEB IS MANIFEST. VALUE OF A TREATY WILL, HOWEVER, DEPEND ON ITS GENERAL ACCEPTABILITY AND NEAR UNIVERSAL ADHERENCE BY STATES.

B. OMANI APPROACH SUBSTANTIALLY WORSENS EXISTING REGIME OF INNOCENT PASSAGE BY SINGLING OUT MILITARY VESSELS FOR REGIME IN WHICH FOR FIRST TIME COASTAL STATE COULD REQUIRE NOTIFICATION OR AUTHORIZATION.

C. EVEN EXISTING REGIME OF INNOCENT PASSAGE IS UNACCEPTABLE TO UNITED STATES AND OTHER MARITIME STATES IF APPLIED TO STRAITS IN CONNECTING HIGH SEAS TO HIGH SEAS. INNOCENT PASSAGE UNACCEPTABLE BECAUSE OF NO RIGHT OF OVERFLIGHT OR SUBMERGED TRANSIT, AND POSSIBILITY OF UNWARRANTED SUBJECTIVE INTERPRETATIONS OF INNOCENCE.

D. IF OMANI APPROACH TO STRAITS SHOULD GAIN WIDESPREAD SUPPORT IT WOULD VIRTUALLY GUARANTEE THAT THERE WILL BE NO LOS TREATY, AS US AND OTHER MARITIME STATES COULD NOT UNDER ANY CIRCUMSTANCES SIGN A TREATY CONTAINING SUCH ARTICLES. WE BELIEVE FAILURE OF LOS CONFERENCE WOULD BE CONSIDERABLE LOSS TO OMAN, AS WELL AS TO US.

E. UNITED STATES IS WILLING TO WORK OUT PASSAGE REGIME FOR STRAITS WHICH, WHILE PROVIDING UNIMPEDED TRANSIT FOR ALL VESSELS AND AIRCRAFT AS REQUIRED BY MARITIME POWERS, PROVIDES SECURITY AND SAFETY GUARANTEES FOR STRAITS STATES. IT IS ABSOLUTELY NECESSARY, HOWEVER, THAT THESE GUARANTEES BE IN FORM OF TREATY OBLIGATION PLACED ON TRANSITING VESSELS AND FLAG STATES RATHER THAN UNILATERAL REGULATION BY STATES RATHER THAN UNILATERAL REGULATION BY STATES LITTORAL TO STRAITS.

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F. OMANI APPROACH TO CONTIGUOUS ZONE ALSO CONTAINS PITFALLS. WITH TREATY ESTABLISHMENT OF A 12-MILE TERRITORIAL SEA, NEED FOR A CONTIGUOUS ZONE WOULD SEEM TO DISAPPEAR. ADVOCACY OF SUCH A ZONE FURNISHES VEHICLE FOR USE OF THOSE WHO WOULD SEEK TO IMPEDED NAVIGATION. USG UNAWARE OF ANY INTEREST OF OMAN WHICH WOULD REQUIRE CONTIGUOUS ZONE, BUT IF SUCH PROBLEM EXISTS, WOULD WELCOME

OPPORTUNITY TO DISCUSS OTHER MEANS OF RESOLUTION.

3. DISCUSSIONS BETWEEN MR. MOORE AND OMANI
DEL IN GENEVA CONFIRM THAT POLICY ON STRAITS ISSUE
WILL BE MADE IN MUSCAT. INDEED, OMANI REP. SEEMED
TO SUGGEST TO AMBASSADOR MOORE THAT US SHOULD
CONVEY IMPORTANCE OF ISSUE TO OMANI GOVERNMENT IN
MUSCAT.DALE

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